IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

CRP.No. 1761 of 2002()

(I.A.NO.2589/2002 IN O.S.NO.289/1998 OF THE PRL.MUNSIFF'S COURT, NEYYATTINKARA)

REVN. PETITIONER: 2ND RESPONDENT/2ND DEFENDANT:

GLARAMMA HELAN, RESIDING AT
VARAVILATHOPPU, PURAYIDOM,
POOVAR DESOM, THIRUPURAM PAKUTHY.

BY ADV. SRI.L.MOHANAN
SRI.D.SAJEEV
SMT.LIGEY ANTONY

RESPONDENTS: PETITIONER-PLFF & 1ST RESPONDENT - 1ST DEFT.

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1. MARIYADASI D/O. ANTHONY,
VARAVILATHOPPU LEKSHOM VEEDU COLONY,
LPOOVAR DESOM, THIRUPURAM VILLAGE.

2. JOSEPH HILARI, S/O. ELIAS,
RESIDING AT VARAAVILATHOPPU PURAYIDOM,
POVAR DESOM, THIRUPURAM PAKUTHY.

BY ADV. SRI.R.T.PRADEEP FOR R1

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P.NO.4279 OF 2002 IN CRP NO.1761/2002

DISMISSED. SD/- M.N.KRISHNAN, JUDGE DT 6/8/2007

//TRUE COPY// P.S. TO JUDGE

M.N.KRISHNAN, J

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C.R.P. No.1761 OF 2002

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Dated this the 6th day of August 2007

O R D E R

This revision petition is preferred against the order of the Principal Munsiff, Neyattinkara in I.A.No.2589 of 2002 in O.S.No.289 of 1998. The plaintiff has filed a suit for eviction of the defendants with arrears of rent. The plaintiff claims right over the property by virtue of a patta obtained by her and according to her, on 2.2.1992 it was leased out to the defendants for a monthly rent of Rs.100/-.

2. On the other hand, defendants had disputed the title of the plaintiff over the property and they would contend that they have purchased the right of kudikidappu in respect of the disputed building and two cents of land and therefore the plaintiff is not entitled to any relief. The plaintiff, thereafter has moved an application to amend the plaint to add a prayer to set aside the patta relied on by the defendants and for a mandatory injunction to demolish a building which has been constructed by the defendants. The contention of the revision petitioner is that she had pleaded about the patta in January, 1999 and the amendment application is filed in June, 2002 and therefore the right to get the document set aside is

barred by limitation and being a valuable right, it cannot be deprived by permitting an amendment of the plaint.

3. The suit is filed for eviction with arrears of rent and the amendment has been necessitated only on account of the contention of kudikidappu set up by the defendants. There is no case for the defendants that they have obtained the kudikidappu right with the plaintiff on record. So, what will be the binding nature and what will be the impact of the issuance of patta in favour of the defendants are the questions which require larger consideration. By allowing the amendment, it will not ipso facto take away the right of the defendants, if it had already accrued.

Therefore the court below was right in allowing the amendment application. So the order does not call for any interference. Hence the C.R.P. is dismissed. Needless to say that defendants can file their objections in the form of an additional written statement including the plea of limitation and the court is bound to frame proper issues, consider them and dispose of the matter in accordance with law.

M.N.KRISHNAN, JUDGE

Cdp/-